

1           **ORDINANCE TO REVISE RESTRICTIONS ON SOLICITING MOTOR VEHICLES IN**  
2                           **ROADWAYS AND TO RESTRICT USE OF MEDIANS**

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4       Section 1. The following section 66-12 is added to the City Code:

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6           **Sec. 66-12. Standing, sitting, and walking on median generally prohibited.** No person shall  
7       stand, sit, or walk on a median, provided that this section does not prohibit a person from taking  
8       such actions during the time needed to travel safely from one side of a roadway to the opposite  
9       side of the roadway. In this section, the definitions of median and roadway as set forth in section  
10      54-26 apply.

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12      Section 2. City Code section 54-26 (Definitions) is amended by adding the following definitions:

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14           *Controlled-access highway* means a section of State highway especially designed for through  
15      traffic and over, from, or to which highway owners or occupants of abutting property or others  
16      have only a controlled right or easement of access.

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18           *Frontage road* means a street that is auxiliary to and located on the side of another street for  
19      service to abutting property and adjacent areas and for the control of access to such other street.

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21           *Median* means the portion of street right-of-way that separates traffic lanes, including any curbs,  
22      regardless of whether the area separating traffic lanes is at the level of the roadway.

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24           *Occupant*, with respect to a motor vehicle, means the driver and all passengers.

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26           *Passenger* means an occupant of a motor vehicle, excluding the driver.

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28           *Solicitation-restricted right-of-way* means street right-of-way on which any of the following types  
29      of streets is located: Interstate Highway System; National System of Interstate and Defense  
30      Highways; controlled-access highway; frontage road; U.S. Highway; U. S. Route; street or  
31      highway that is part of the State highway system or that is a State highway; street with a speed  
32      limit of 35 miles per hour or greater; street with more than two designated vehicle travel lanes;  
33      street on which there is a median; and one-way street regardless of the number of designated  
34      vehicle travel lanes.

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36           *Street* means the street right-of-way but excludes sidewalk and areas farther from the roadway  
37      than sidewalk.

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39           *Tangible thing* includes money.

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41      Section 3. City Code sections 54-26 is revised by changing the following definition to read:

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43           *Street right-of-way* means the entire area in which the public, the City of Durham, or the State  
44      owns a property interest, when a portion is open to the use of the public as a matter of right for  
45      any motor vehicular traffic. The street right-of-way includes roadway, and may include right-of-  
46      way parking area, sidewalk, median, and unpaved areas, including grassed area.

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48      Section 4. City Code sections 54-84 through 54-87 are revised to read as follows:

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50      **Sec. 54-84. - Interacting with or impeding traffic on roadways.**

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52 Except to the extent provided by section 54-86:

53 (1) No individual in a solicitation-restricted right-of-way shall stop or attempt to stop any  
54 motor vehicle that is on the roadway located within that right-of-way for the purpose of  
55 soliciting employment, business, or contributions from any occupant of the motor  
56 vehicle, or for the purpose of providing any service to the motor vehicle or any of its  
57 occupants;

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59 (2) No individual in a solicitation-restricted right-of-way shall deliver, or , by means of a  
60 sign or other device of any kind, or by means of speech, sounds, signals, or motions offer  
61 to deliver, any tangible thing to any occupant, of a motor vehicle that is on the roadway  
62 located within that right-of-way;

63  
64 (3) No individual in a solicitation-restricted right-of-way shall, by means of a sign or  
65 other device of any kind, or by means of speech, sounds, signals, or motions, request any  
66 occupant of a motor vehicle that is on the roadway located within that right-of-way to  
67 deliver any tangible thing to the individual, unless the individual specifies by a sign that  
68 can be read from a distance of 30 feet that the tangible thing is to be delivered to the  
69 individual or another person only when the motor vehicle is off the street right-of-way;  
70 and

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72 (4) Unless he or she is on a paved sidewalk, no individual in a solicitation-restricted  
73 right-of-way shall, by means of a sign or other device of any kind, or by means of signals  
74 or motions, attempt to alert any occupant of a motor vehicle that is on the roadway  
75 located within that right-of-way to any commercial activity.

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77 **Sec. 54-85. Reserved.**

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79 **Sec. 54-86. Requirements for transactions with motor vehicle on roadway.**

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81 (a) Section 54-84 does not prohibit an individual aged 16 or more years from doing the following:

82 (1) Stopping or attempting to stop, for the purpose of soliciting employment, business, or  
83 contributions, a motor vehicle that is on a one-way street, but only when (i) the motor  
84 vehicle is in the traffic lane closest to the edge of the roadway if the roadway contains  
85 more than one traffic lane, and (ii) the individual is on a paved sidewalk;

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87 (2) Delivering or offering to deliver a tangible thing to a passenger (not the driver) of a  
88 motor vehicle that is on a roadway, but only when (i) the motor vehicle is on a one-way  
89 street; (ii) the motor vehicle is in the traffic lane closest to the edge of the roadway if the  
90 roadway contains more than one traffic lane; (iii) the driver of the motor vehicle is, while  
91 the delivery or offer to deliver is occurring, complying with either (x) a traffic signal that  
92 requires the vehicle to come to a complete stop and the traffic signal has not changed to  
93 allow the vehicle to proceed or (y) a stop sign; and (iv) the passenger is on the right-hand  
94 side of the motor vehicle;

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96 (3) Receiving a tangible thing from a passenger (not the driver) of a motor vehicle that is  
97 on a roadway, but only when (i) the motor vehicle is on a one-way street; (ii) the motor  
98 vehicle is in the traffic lane closest to the edge of the roadway if the roadway contains  
99 more than one traffic lane; (iii) the driver of the motor vehicle is, while the individual is  
100 receiving the tangible thing from the passenger, complying with either (x) a traffic signal

that requires the vehicle to come to a complete stop and the traffic signal has not changed to allow the vehicle to proceed or (y) a stop sign; and (iv) the passenger is on the right-hand side of the motor vehicle.

(b) An individual acting pursuant to subsection (a) shall not:

- (1) *First Amendment protected goods*. Sell any goods besides First Amendment protected goods. First Amendment protected goods include newspapers and magazines.
- (2) *Roadway*. Stand, sit, or walk on a roadway, provided that this subsection (2) does not prohibit an individual from standing and walking on the roadway during the time needed (i) to travel to or from a motor vehicle whose occupant has signaled the individual to approach, and (ii) to engage in transactions allowed by subsections (a)(2) and (a)(3).
- (3) *Median*. Violate city code section 66-12 (Standing, sitting, and walking on median generally prohibited).
- (4) *Animals*. Be accompanied by an animal, provided that an individual with a disability may be accompanied by a service animal trained to assist the individual with the individual's specific disability, upon a showing of a tag, issued by the N. C. Department of Health and Human Services, under G.S. 168-4.3, stamped "NORTH CAROLINA SERVICE ANIMAL PERMANENT REGISTRATION" and stamped with a registration number, or upon a showing that the animal is being trained or has been trained as a service animal. An animal in training to become a service animal may accompany the individual for the purpose of training only when the animal is accompanied by a person who is training the service animal and the animal wears a collar and leash, harness, or cape that identifies the animal as a service animal in training.
- (5) *Daylight*. Be in the solicitation-restricted right-of-way between 20 minutes before sunset and 20 minutes after sunrise. For purposes of this subsection, there is a rebuttable presumption that the United States Naval Observatory's times, as provided by the Astronomical Applications Department or its successor division or department within the Naval Observatory, for sunset and sunrise are correct.
- (6) Reserved.
- (7) *Reflective outerwear*. Fail to wear Class II or Class III ANSI 107-2004 outerwear (i) that is reasonably clean and in good repair, and (ii) on which the total area covered by all things (except for clear plastic that does not affect the reflectiveness of the outerwear) resting on or attached to it is less than a total of four square inches.
- (8) *Signs in general*. Display a sign larger than two feet in any dimension, or display anything with illuminated, animated, blinking, chasing, flashing, or moving effects that can be seen by a person with 20-20 vision from a distance of four feet.
- (9) *Signs in violation of UDO*. Display a sign or other device in the solicitation-restricted right-of-way that is in violation of the UDO.
- (10) *Stopping vehicles at stop signals and signs*. Stop or attempt to stop a motor vehicle that is approaching a traffic signal unless while the individual does either of those actions the traffic signal requires the vehicle to come to a complete stop. For example, the individual does not violate this subsection if the vehicle that the individual stops or attempts to stop is approaching a stop sign or a steady, flashing, or strobe beam light emitting red light, and the individual is in violation of this subsection if the vehicle that the individual stops or attempts to stop is approaching a yield sign, or a steady, flashing, or strobe beam light emitting yellow or green light.
- (11) *Safe passage of pedestrians*. Interfere with the quick and safe passage across the roadway of pedestrians.
- (12) *Normal movement of pedestrians*. Impede the normal movement of pedestrians.

- (13) *Littering and traffic laws.* Violate any litter or traffic safety laws, including G.S. 20-174.1 and G. S. 20-175.
- (14) *Removal of goods, etc.* Fail to remove all goods for sale, and all structures, devices, things, and materials of any kind used to transport, protect, display, advertise, or sell any goods, from the solicitation-restricted right-of-way when the individual is more than 50 feet away from any such item.
- (15) *Work zones.* Be in a work zone or stop or attempt to stop a motor vehicle that is in a work zone. A "work zone" is the area between the first sign that informs motorists or drivers of the existence of a work zone, construction zone, maintenance zone, utility work zone, or similar warning on a street and the last sign that informs motorists or drivers of the end of the zone, regardless of whether a sign states the penalty for speeding in the zone. Work zones are designated as such if the Secretary of the N.C. Department of Transportation or the city manager determines, after engineering review, that the posting is necessary to ensure the safety of the traveling public due to a hazardous condition; or if the posting is done at the direction of or with the consent of a governmental body or official having jurisdiction. The direction or consent may be given by any appropriate manner, including incorporation into specifications of a contract. There shall be a rebuttable presumption that any posting of a work zone has been done with the consent of a governmental body or official having jurisdiction.
- (16) *Access ramps.* Be on an access ramp.
- (17) *Bridges.* Be on a bridge, or on the portion of a street leading to or from a bridge that is within 100 feet of the bridge.

(c) *Litter.* Any goods, structures, devices, things, and materials not removed in accordance with subsection (a)(14) of this section shall be considered litter pursuant to section 26-123. Nothing in this section is intended to limit the effect of chapter 26.

**Sec. 54-87. - Exceptions for public service activities, compliance with law enforcement directions, and emergencies.**

Section 54-84 does not apply to licensees, lessees, franchisees, permittees, employees, or contractors of the city or of the N.C. Department of Transportation engaged in inspection, construction, repair, or maintenance or in making traffic or engineering surveys, or any of the following persons while engaged in the performance of their respective occupations: firefighting personnel, law enforcement personnel, EMS personnel, health care workers or providers, military personnel, civil preparedness personnel, emergency management personnel, solid waste personnel, recycling personnel, public works personnel, or public utility employees. Section 54-84 does not apply to the extent that law enforcement personnel direct otherwise for the purpose of promoting safety of persons or property or to address an emergency. Section 54-84 does not apply to actions taken in response to an emergency.

Section 5. This ordinance is effective at 12:01 A.M. thirty days after adoption.